

---

THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

---

MICHAEL LUESSE,  
Plaintiff,

v.

ROSIE RIVERA et al.,  
Defendants.

**MEMORANDUM DECISION &  
ORDER DENYING MOTION FOR  
RELIEF FROM JUDGMENT**

Case No. 2:20-CV-232 TS

District Judge Ted Stewart

---

On June 16, 2020, the Court ordered Plaintiff to within thirty days show cause why his case should not be dismissed because he did not comply with the Court's earlier Order to submit a certified six-month inmate statement. (ECF No. 9.) Three months later, when Plaintiff did not respond to the Order to Show Cause, the Court dismissed this case. (*Id.*) Nearly two years after dismissal, Plaintiff moved for reconsideration of the dismissal. (ECF No. 11.)

Federal Rule of Civil Procedure 60(b) states in relevant part, “On motion and just terms, the court may relieve a party . . . from a final judgment, order, or proceeding for the following reasons . . . mistake, inadvertence, surprise, or excusable neglect.” Plaintiff appears to rely on his own excusable neglect as the basis for relief from judgment here. However, Plaintiff's motion did not at all address the reason why the action was dismissed, which was the failure to file the required inmate-account statement. Neither did Plaintiff fully and specifically address the lengthy time gap and why there was never a window of time in two years in which he could have pursued this dismissed case. Nor did Plaintiff acknowledge that his action was dismissed without prejudice and--based on the applicable statute of limitation--may be eligible for refile in a new

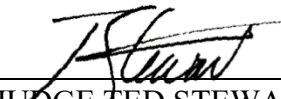
case. Plaintiff is apparently operating now as a released prisoner, which would make some procedural aspects of refiling different from how this closed case proceeded--lending itself to refiling in a new case without the constraints of starting out as a prisoner-plaintiff.

Based on the above, **IT IS ORDERED** that--in the Court's discretion--Plaintiff's post-judgment motion and motion to file an amended complaint are **DENIED**. (ECF Nos. 11, 12.)

This action remains closed.

DATED this 27th day of December, 2022.

BY THE COURT:



---

JUDGE TED STEWART  
United States District Court